BEFORE THE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of	)	FINDINGS OF FACT,
Harney County School District #3	)	CONCLUSIONS, AND FINAL ORDER
	)	Case No. 26-054-016

I. BACKGROUND

On February 2, 2026, the Oregon Department of Education (Department) received a special education complaint (Complaint) from a Parent (Parent) regarding the special education of a Student (Student] who resides in the Harney County School District #3. The Parent alleged that the District had violated one or more provisions of the Individuals with Disabilities Education Act (IDEA). The Department conducted a special education complaint investigation pursuant to Oregon Administrative Rule 581-015-2030.

Under state and federal law, the Department must investigate written complaints that allege violations of the Individuals with Disabilities Education Act (IDEA) and issue an order within sixty days of receipt of the complaint.[1] This timeline may be extended if the Parent and the District agree to the extension in order to engage in mediation or local resolution or for exceptional circumstances related to the complaint.[2] In this case, the Parent and Department agreed to suspend the complaint investigation pending the outcome of a facilitated meeting. The facilitated meeting did not resolve the disagreement, so the investigation resumed.

On February 9, 2026, the Department's complaint investigator (Investigator) sent the District a *Request for Response*, which identified the Parent's allegations of IDEA violation and requested a narrative response and specified documents to be submitted to the Investigator by February 24, 2026.

The District submitted a Response to the Complaint on February 24, 2026 and submitted the following documents in support of its position:

1. Narrative Response
2. Parent-District emails, 02/24/25-02/02/26
3. Synergy Student contact log, 11/20/24-02/10/26
4. Report Cards
    a. 2024-25 Q3
    b. 2024-25 Q4
    c. 2025-26 Semester 1
5. §504 meeting documents
    a. 02/05/25
    b. 10/01/25

[1] OAR 581-015-2030(12) and 34 CFR §300.152(a)

[2] OAR 581-015-2030(12) and 34 CFR §300.152(b)

6. Manifestation Determination Review
7. NICHQ Vanderbilt Assessment Scale-TEACHER Informant forms from all 2025-26 teachers
8. Health Plan documents
    a. Individual Health Plan 10/16/25
    b. Dietary medical letter 12/18/25
9. Prior Written Notice (PWN), 02/10/26

The Parent did not submit a *Reply* to the District's *Response*. In response to the Investigator's request, the Parent sent a copy of the 2021 Psycho-educational Assessment Report.

The Investigator spoke by phone with the Parent on February 6, 2026 to discuss the allegations in the Complaint. The Investigator again spoke with the Parent by phone on April 21, 2026, following the facilitated meeting and resumption of the investigation. The Investigator reviewed and considered all of these documents, interviews, and exhibits in reaching the findings of fact and conclusions of law contained in this order.

II. ALLEGATIONS AND CONCLUSIONS[3]

The Department has jurisdiction to resolve this Complaint under 34 CFR §§ 300.151-153 and OAR 581-015-2030. The Complainant's allegations and the Department's conclusions are set out in the chart below. The conclusions are based on the Findings of Fact in Section III and the Discussion in Section IV. This Complaint covers the one-year period from February 3, 2025 to the filing of this Complaint on February 2, 2026.

Allegations	Conclusions
Child Find The Complaint alleged that the District violated the IDEA when it failed to identify the Student as a child with a disability, despite the fact that the District had reason to suspect that the Student might need special education. (OAR 581-015-2200; 34 CFR §300.320)	**Not Substantiated** The District had no reason to suspect that the Student needed special education.
Evaluation The Parent alleges that the District violated the IDEA by repeatedly refusing to conduct a	**Not Substantiated** The Parent initiated a special education referral. The District held an evaluation

[3] Investigation of special education complaints is limited to alleged violations of the IDEA during the one-year complaint period. The 100-page complaint in this case includes numerous allegations that do not state a violation of the IDEA. The Parent has been directed to other potential avenues of redress for non-IDEA concerns.

Allegations	Conclusions
comprehensive special education evaluation. Specifically, the Parent alleges that the Parent repeatedly requested special education evaluation and the requests were refused because the Student earns good grades. (OAR 581-015-2105(3); 34 CFR §300.301)	planning meeting in accordance with IDEA requirements. All members of the team except the Parent agreed that a special education evaluation was not warranted.
Free Appropriate Public Education (FAPE) The Parent alleges that the District failed to provide the Student with a Free Appropriate Public Education. (OAR 581-015-2040; 34 CFR §300.101)	**No Determination Made** The IDEA FAPE requirement does not apply to children who are not eligible for special education.

REQUESTED CORRECTIVE ACTION
The Parent requests District actions to resolve this complaint as follows: 1. Comprehensive IDEA Evaluation. The district must conduct a full and individual evaluation in all areas of suspected disability, including: Specific Learning Disability (reading/dyslexia, math/dyscalculia, written expression) Speech and language Emotional disturbance Trauma-related needs Executive functioning and regulation Health-related impacts (including celiac disease as it affects learning) 2. Independent Educational Evaluation (IEE). If the district disagrees with outside findings, it must fund an Independent Educational Evaluation at public expense. 3. Eligibility Determination Meeting. An eligibility meeting must be held considering all categories supported by data, including: Specific Learning Disability Emotional Disturbance Other Health Impairment Speech/Language Impairment (if evaluation supports) 4. Development of an Appropriate IEP. If eligible, [the Student] must receive an IEP that includes: Structured, evidence-based reading intervention for dyslexia Math intervention for calculation and reasoning deficits Written expression and spelling supports Speech-language services if warranted School-based counseling or mental health supports Sensory and regulation supports Accommodations previously identified under the 504 plan. 5. Compensatory Education. [The Student] must receive compensatory academic services for the period in which appropriate evaluations and services were not provided. ALONG with staff training and ongoing monitoring.

III. FINDINGS OF FACT

IDEA regulations limit complaint investigation to alleged violations occurring no more than one year before the Department's receipt of the special education complaint. This Investigation does not consider facts before or after the Complaint period. However, facts outside of the Complaint period may be included to provide context necessary to understand the circumstances surrounding this Complaint.

1. The Student was 15 years old and attending District Middle School and High School during the complaint period.

2. The Student has celiac disease, which requires complete avoidance of food and environmental materials that contain gluten.

3. Several years ago, the Parent began to have concerns about the Student's academic performance. In 2021, when the Student was 11 years old, the Parent obtained comprehensive psycho-educational testing that included measures of intelligence, academic skills, executive function, attention, visual-motor integration, and phonological processing. The assessment also included interviews with the Student and Parent, behavior rating scales, and measures of anxiety, depression, and trauma. The Student's academic scores were mostly average and low average, with notable weaknesses in spelling, math, and verbal reasoning and expression. Measures of non-academic function pointed to depression, anxiety, and post-traumatic disorders. The psychologist who conducted the testing recommended that the Parent share the report with the Student's school team.

4. The Student's school district at the time of the psycho-educational testing conducted an evaluation and, based on the independent assessment report provided by the Parent, determined that the Student was eligible for a 504 Plan.

5. The Student moved into the District and enrolled in the Middle School in January 2024. The District immediately adopted and began implementing the 504 Plan from the previous school district.

6. On February 5, 2025, the District convened a review meeting for the Student's 504 Plan. Attending the meeting were the Middle School Principal, the Parent, and all of the Student's teachers. The written 504 Plan indicates that the team reviewed and considered the 2021 Psycho-Educational assessment report, the Student's grades, and the Student's attendance record. They agreed that the Student had an impairment that substantially limited one or more major life activities. They developed a list of accommodations, services, and supports intended to address the Student's disabilities in the educational setting. The Parent signed consent for implementation of the 504 Plan.

7. On February 2, 2025, the Student exhibited some disruptive behaviors and vulgar language toward a teacher that led to 3 days of in-school suspension.

8. At the February 5, 2025 504 Plan meeting, the team discussed conducting a functional behavior assessment (FBA). The District sent the Parent an FBA consent form, but the Parent did not sign and return it.

9. On March 3, 2025, the Student was alleged to have set another Student's hair on fire, attempted to set clothing on fire, and threatened to burn down the school.

10. On March 5, 2025, the District convened a manifestation determination review meeting. Attending were: the Principal, a District Representative (who is also the Student Services Director), and three teachers. The Parent was unable to attend due to a mistaken belief that the meeting had been cancelled. The team decided that the Student's conduct was neither the direct result of the district's failure to implement the Student's 504 Plan nor caused by or directly and substantially related to the student's disability.

11. The Student's report cards for the first half of the Complaint period show generally satisfactory performance for Quarter 3 and declining performance for Quarter 4 of the 2024-25 school year.

    Report card 2024-25 Quarter 3:
    Math Online, B
    Lang Arts Online, B+
    Science Online, C-
    Social Studies, Online C+
    Elective Online, A-

    Report card 2024-25 Quarter 4.
    Math Online, C
    Lang Arts Online, C-
    Science Online, D+
    Social Studies Online, C
    Unspecified Elective Online, D-

12. The Student began 9th grade at the District High School in September 2025. Although the Student had experienced discipline problems for a time during the previous school year, neither the Parent nor the District have described any discipline problems since the Student entered high school.

13. On September 18, 2025, the District sent the Parent notice of an October 1, 2025 504 meeting. The notice identified the participants as all High School teachers scheduled to work with the Student.

14. The Student's 504 Team met on October 1, 2025. Attending were: the Parent, three regular education teachers, a special education teacher, a school counselor, and a District representative.

    The purpose of the meeting was threefold: "Review current 504 accommodations and academic/behavioral performance; address parent concerns regarding possible undiagnosed learning disability: and determine next steps for supports, accommodations, and possible evaluations."

    The Student's teachers provided input, summarized in the meeting notes as follows:
    "[The Student] is respectful, engaged, and participates in class.
    Frequently checks on grades and assignments; works ahead in math.
    Conscientious, hard-working, and advocates for [themselves].
    Needs reminders to stay on task, particularly in noisy environments.
    Past behavioral issues have decreased; recent incidents handled with improvement."

    In this meeting, the Parent requested updated cognitive, academic, and speech-language testing. The teachers did not see evidence of a learning disability, but the team agreed to hold an evaluation planning meeting "to determine the need for updated testing".

15. On October 2, 2025, the Student's primary health care provider completed a medical statement identifying a diagnosis of celiac disease.

16. On October 14, 2025, the District convened an Evaluation Planning Meeting. Attending were: the Parent, the Student, Special Ed Teacher/Case Manager, Principal/District Representative, Math Teacher, ELA Teacher, Personal Finance Teacher, Student Service Director, Spanish Teacher, and Woods Teacher. All teachers indicated that the Student was bright and capable, and all stated that they had no academic concerns. They expressed no behavioral concerns other than the Student's "random" or "off topic" comments. The Student also expressed no concerns. The teachers agreed that the Student was reaching grade-level standards. The Parent asked for hard data but did not "feel like [the Student] needed additional testing right now but some time … wants to make sure that [the Student] does not have dyslexia or comprehension issues". The Student Service Director suggested that the Teachers could all complete Vanderbilt Scales, a screening tool for symptoms of ADHD. The Parent emphasized concerns about celiac disease and the need for accommodations.

17. On October 14, 2025, the 504 team added services and accommodations related to celiac disease to the Student's 504 Plan, and the Parent signed consent for its implementation.

18. On October 14, 2025, the District gave the Parent Prior Written Notice (PWN) of its decision not to conduct a special education evaluation. The PWN stated in relevant part

that it was refusing to initiate a special education evaluation because "Teachers and school staff report that [the Student] is meeting grade level standards with good grades and does not demonstrate an educational need for assessment." The action was based on grades, teacher input, parent input, and student input.

19. Following the October 14, 2025 meeting, all of the Student's teachers completed Vanderbilt Scales. All except one of the teachers indicated that the Student exhibited problematic behavior suggestive of ADHD "never" or "occasionally". The exception was the Student's Strength teacher, who noted that the Student often was distractible and excessively talkative.

20. On October 16, 2025, the Student's Individual Health Plan was updated to explain the dietary and environmental risks to the Student from exposure to gluten, the symptoms the Student might exhibit from gluten ingestion or exposure, and necessary preventive measures.

21. On January 1, 2026, the Parent emailed to the Special Education Teacher and several District administrators a copy of the independent Psycho-educational evaluation conducted in 2021.

22. The Student's Report Card for the first Semester of the 2025-26 school year show satisfactory grades in all classes:

    Advisory A, IP
    Personal Finance, B
    Integrated Science A, B
    Strength, A
    English 9-A, C
    Spanish 1-A, B
    Woods 1, A
    Algebra, 1A, A

23. On January 29, 2026, the Parent sent an email to several District administrators and the Special Education Teacher expressing disagreement with the PWN dated 10/14/25. The Parent complained that the decision was based on grades and classroom performance. The Parent stated that the Student had documented disabilities, including learning disabilities, mental health diagnoses, attention/regulation, and a medical condition (Celiac disease)" and that it was "hard to understand how those suspected disabilities could be ruled out without evaluation data." The Parent asked for an Independent Educational Evaluation (IEE) at District expense because the District had made an "evaluation decision" with which the Parent disagreed.

24. The Special Education Teacher replied to the Parent on the same day, summarizing the team's reasoning for not initiating a special education evaluation and adding:

"That said, parents may request an evaluation at any time. Your email clearly reiterates concerns across multiple suspected areas of disability, including attention/executive functioning, emotional regulation, learning concerns, and health-related educational impact. In response, the district will reconvene the team to review these concerns and determine whether additional evaluation is warranted at this time. We will follow required evaluation planning procedures, including consideration of all suspected areas of disability raised by the parent and school team."

The Special Education Teacher explained that the Parent was not entitled to an IEE at District expense because the District had not conducted a special education evaluation with which the Parent could disagree.

25. On February 2, 2026, the Parent sent an email addressed to the Special Education Teacher, the Superintendent, and the Special Education Director. The email includes the following:

"I am attaching [the Student's] most recent neuropsychological evaluation for the district's review and inclusion in [the] educational record, even though I do believe the middle school had a few copies attached to file and I have provided a copy to attach to file this year as well. This evaluation documents SPECIFIC learning disabilities in reading, writing, and mathematics, as well as language concerns, processing weaknesses, and emotional regulation impacts that affect [the Student's] access to education.
Given this information, I am requesting that this report be formally considered as part of the team's review of [the Student's] educational needs and any decisions regarding evaluation, eligibility, or supports."

26. On February 2, 2026, the Parent filed this Complaint.

IV. DISCUSSION

Child Find

The Parent alleged that the District violated the IDEA when it failed to identify the Student as a child with a disability, despite the fact that the District had reason to suspect that the Student might need special education.

The Individuals with Disabilities Education Act (IDEA) requires that "school districts must identify, locate and evaluate all resident children with disabilities, regardless of the severity of the disability, who are in need of early intervention, early childhood special education, or

special education services".[4] This requirement applies to students suspected of having a disability even if they are advancing from grade to grade.[5]

In this case, the District has asserted that it had no reason to suspect that the Student had a disability. The Student had enrolled in the District with an existing 504 Plan, which the District implemented. Neither the staff nor the Parent suggested that the Student might need special education until October 1, 2025, when the Parent asked for a special education evaluation. Since that time, the District has made efforts to determine whether the Student needed special education. The teachers who work with the Student have repeatedly indicated satisfaction with the Student's academic and behavioral performance. The Parent has not produced contrary evidence indicating the Student needed special education.

The Department does not substantiate this allegation.

Evaluation

The Parent alleged that the District has ignored or dismissed requests for special education evaluation of the Student for the entire complaint period and earlier.

A district must conduct an initial evaluation if it suspects or has reason to suspect that:

(a) The child has a disability that has an adverse impact on the child's educational performance; and

(b) The child may need special education services as a result of the disability.[6]

Either a parent or a school district may initiate a referral for an evaluation to determine if a child has a disability and needs special education.[7] If a parent or a school district initiates a request for a special education evaluation, the district must designate a team to determine whether a special education evaluation is appropriate.[8]

(a) The team must include the parent(s) and at least two professionals, one of whom is a specialist knowledgeable and experienced in the evaluation and education of children with disabilities.

(b) The team may make this decision without a meeting but, if a meeting is held, parents must be invited to participate.

[4] OAR 581-015-2080(1)
[5] OAR 581-015-2080(2)(d)
[6] OAR 581-015-2105(3)(a)
[7] OAR 581-015-2105(2)
[8] OAR 581-015-2105(3)(b)

In this case, the Parent initiated a referral for special education evaluation on October 1, 2025. Within two weeks, the District had convened an evaluation planning meeting. The Parent and the Student both participated. They discussed the Student's academic and behavioral performance and determined that there was no reason to suspect a need for special education. The Student had a diagnosed health condition, which the District addressed through an Individual Health Plan. A private psychoeducational assessment conducted five years earlier suggested that testing for learning disabilities might be indicated. It is important to note, however, that neither suspicion nor diagnosis of learning disabilities is sufficient to find a Student eligible for special education. Eligibility depends on both a diagnosis of a disability and a finding that, because of that disability, the Student requires special education. In this case, the District determined that the Student was performing satisfactorily in the classroom and meeting grade level standards. The District did not find reason to suspect that the Student needed special education.

The Department does not substantiate this allegation.

Free Appropriate Public Education (FAPE)

The Parent alleged that the District failed to provide the student with a free appropriate public education.

The IDEA provides that school districts must provide a FAPE to every child who has a disability and needs special education.[9] The IDEA FAPE requirement does not apply to students who do not need special education.[10] The Student in this case has been considered for special education eligibility more than once, but each time the District has determined that the Student is meeting grade level standards and exhibits satisfactory academic and behavioral performance. Consequently, the Student is not entitled to FAPE as defined in the IDEA and interpreted in related case law.[11]

The Department does not substantiate this allegation.

V. CORRECTIVE ACTION[12]

In the Matter of Harney County School District #3
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The Department does not order corrective action in this case.

[9] OAR 581-015-2040; 34 CFR §300.101

[10] Students with 504 Plans also are entitled to FAPE. However, the definition 504 FAPE is different from IDEA FAPE. See 34 CFR §104.33. The Department cannot address 504 issues in the context of special education complaint investigations.

[11] See Hendrick Hudson Central Sch. Dist. v. Rowley, 458 U.S. 176 (1982) and Endrew F. v. Douglas County Sch Dist RE-1, 137 S.Ct. 988 (2017)

[12] The Department's order shall include any necessary corrective action as well as documentation to ensure that the corrective action has been completed (OAR 581-015-2030(13)). The Department expects and requires the timely completion of corrective action and will verify that the corrective action has been completed as specified in any final order (OAR 581-015-2030(15)). The Department may initiate remedies against a party who refuses to voluntarily comply with a plan of correction (OAR 581-015-2030(17) & (18))

Dated: this 8 Day of May, 2026



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Ramonda Olaloye
Assistant Superintendent

Office of Enhancing Student Opportunities

E-mailing Date: May 8, 2026

Appeal Rights: Parties may seek judicial review of this Order. Judicial review may be obtained by filing a petition for review within sixty days from the service of this Order with the Marion County Circuit Court or with the Circuit Court for the County in which the party seeking judicial review resides. Judicial review is pursuant to the provisions of ORS § 183.484. (OAR 581-015-2030 (14).)